

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

TERESA MILLER,

Plaintiff,

v.

**Civil Action No. 1:23CV16
(Kleeh)**

UNITED STATES OF AMERICA,

Defendant.

**ORDER ADOPTING REPORT AND RECOMMENDATION [ECF NO. 8], OVERRULING
OBJECTION [ECF NO. 11], AND DISMISSING CASE WITHOUT PREJUDICE**

I. BACKGROUND AND REPORT AND RECOMMENDATION

On February, 2023, Plaintiff Teresa Miller ("Miller") filed a complaint alleging she was subjected to an unjust conviction and wrongful imprisonment as a result of the proceedings in Criminal Number 1:19cr41. [ECF No. 1]. Pursuant to 28 U.S.C. § 636 and the local rules, the Court referred the action to United States Magistrate Judge Michael J. Aloï (the "Magistrate Judge") for initial review. ECF No. 4. On February 15, 2023, the Magistrate Judge entered a Report and Recommendation ("R&R") [ECF No. 8], recommending the Court dismiss Plaintiff's complaint without prejudice [ECF No. 1] and deny as moot the motion for leave to proceed in forma pauperis [ECF No. 2]. The R&R informed the parties that they had fourteen (14) days plus an additional three (3) days from the date of the filing of the R&R to file "specific written objections identifying the portions of the Report and

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Recommendation to which objection is made, and the basis for such objection.” It further warned them that the “[f]ailure to timely file objections . . . shall constitute a waiver of de novo review by the District Court and a waiver of appellate review by the Circuit Court of Appeals.” ECF No. 8 at 5. Miller timely filed an objection to the R&R. ECF No. 11.

II. OBJECTIONS AND STANDARD OF REVIEW

On February 28, 2023, Miller timely filed “Objections to Report and Recommendation” [ECF No. 11]. When reviewing a magistrate judge’s R&R, the Court must review de novo only the portions to which an objection has been timely made. 28 U.S.C. § 636(b)(1)(C). Otherwise, “the Court may adopt, without explanation, any of the magistrate judge’s recommendations” to which there are no objections. Dellarcirprete v. Gutierrez, 479 F. Supp. 2d 600, 603-04 (N.D.W. Va. 2007) (citing Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983)). Courts will uphold portions of a recommendation to which no objection has been made unless they are clearly erroneous. See Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

“When a party does make objections, but these objections are so general or conclusory that they fail to direct the district court to any specific error by the magistrate judge, de novo review

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is unnecessary.” Green v. Rubenstein, 644 F. Supp. 2d 723, 730 (S.D. W. Va. 2009) (emphasis added) (citing Orpiano v. Johnson, 687 F.2d 44, 47 (4th Cir. 1982)). “When only a general objection is made to a portion of a magistrate judge’s report-recommendation, the Court subjects that portion of the report-recommendation to only a clear error review.” Williams v. New York State Div. of Parole, No. 9:10-CV-1533 (GTS/DEP), 2012 WL 2873569, at *2 (N.D.N.Y. July 12, 2012).

A party waives any objection to an R&R that lacks adequate specificity. See Mario v. P & C Food Markets, Inc., 313 F.3d 758, 766 (2d Cir. 2002) (finding that a party’s objections to the magistrate judge’s R&R were not specific enough to preserve the claim for review). Bare statements “devoid of any reference to specific findings or recommendations . . . and unsupported by legal authority, [are] not sufficient.” Mario, 313 F.3d at 766. Pursuant to the Federal Rules of Civil Procedure and this Court’s Local Rules, “referring the court to previously filed papers or arguments does not constitute an adequate objection.” Id.; see also Fed. R. Civ. P. 72(b).

Miller’s objection states in its entirety:

The petitioner is not only suing for the wrongful incarceration reimbursement of it but for the pretrial detaining loss of patent rights, loss of life and liberty so she feels that since the wrong corn price of ration

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handled by the United States government is only for 50,000 a year that the District court needs to make a decision on the pre-trial and other issues.

ECF No. 11. Miller cites no authority in support of her argument against a specific finding by the Magistrate Judge. Indeed, "referring the court to previously filed papers or arguments does not constitute an adequate objection." Id.; see also Fed. R. Civ. P. 72(b). Because "[b]are statements "devoid of any reference to specific findings or recommendations . . . and unsupported by legal authority," are insufficient, the Court reviewed Miller's objection for clear error and **OVERRULES** the objection. Mario, 313 F.3d at 766. To the extent Miller requests rulings regarding Criminal Action 1:19cr41, that objection is likewise **OVERRULED** given all pre-trial findings have been made in that action.

III. CONCLUSION

For these reasons, the Court **ADOPTS** the R&R in its entirety [ECF No. 8] and **OVERRULES** Miller's objection [ECF No. 11]. All other pending motions are **DENIED AS MOOT**. Miller's Complaint is **DISMISSED WITHOUT PREJUDICE** and the Court **DIRECTS** the Clerk to strike this case from the Court's active docket.

It is so **ORDERED**.

The Clerk shall transmit copies of this Order to counsel of record via email and the pro se Defendant via certified mail,

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return receipt requested.

DATED: October 10, 2023

Handwritten signature of Thomas S. Klee in black ink.

THOMAS S. KLEE, CHIEF JUDGE
NORTHERN DISTRICT OF WEST VIRGINIA